Supreme Court, U.S.
FILED
AUG 28 1992
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92-360

No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

OWENS-ILLINOIS, INC.,
Petitioner,

v.

LINCOLN BOLYARD, *et al.*,
Respondents.

Petition for Writ of Certiorari to the Supreme Court of Appeals of West Virginia

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SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-763

THOMAS ROBERT CONRAD, SR. and
ELIZABETH CONRAD, his wife,
Plaintiffs,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Thomas Robert Conrad, Sr.'s compensatory damages were determined by the Jury to be One Hundred Thousand Dollars ($100,000.00). The Court does hereby further find that the Plaintiff Thomas Robert Conrad, Sr. had negotiated settlements in his case totalling Sixty-One Thousand Nine Hundred Dollars ($61,900.00) prior to said verdict. The Court does in addition find that Two Thousand Four Hundred Dollars ($2,400.00) of these negotiated settlements is based upon a

contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Thousand Dollars ($100,000.00) compensatory verdict shall be Fifty-Nine Thousand Five Hundred Dollars ($59,500.00).

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Forty Thousand Five Hundred Dollars ($40,500.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Forty Thousand Five Hundred Dollars ($40,500.00) prior to perfecting any appeal in this matter, plus an additional amount of $4,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Forty Thousand Five Hundred Dollars ($40,500.00) prior to perfecting any appeal in this matter, plus an additional amount of $4,000.00 Dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing lung cancer or mesothelioma, but rather were claims for asbestos pleural disease, parenchymal asbestosis, and colon cancer, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related lung malignancy, including lung cancer or mesothelioma. The Court has specifically ruled that claims for asbestos-related lung malignancies constitute causes of actions separate from claims

for asbestos pleural disease, parenchymal asbestosis, laryngeal or colon cancer and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-763

MARY ANN JADOT, Executrix of
the Estate of Jean Jadot,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Mary Ann Jadot's compensatory damages were determined by the Jury to be One Hundred Twenty-Six Thousand Seven Hundred Dollars ($126,700.00). The Court does hereby further find that the Plaintiff Mary Ann Jadot had negotiated settlements in her case totalling Forty Thousand Two Hundred Fifty Dollars ($40,250.00) prior to said verdict. The Court does in addition find that Two Thousand Four Hundred Dollars ($2,400.00) of these negotiated settlements is based upon a contingent

and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Twenty-Six Thousand Seven Hundred Dollars ($126,700.00) compensatory verdict shall be Thirty-Seven Thousand Eight Hundred Fifty Dollars ($37,850.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of One Thousand Nine Hundred Dollars ($1,900.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Eighty-Eight Thousand Eight Hundred Fifty Dollars ($88,850.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owen-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Eighty-Eight Thousand Eight Hundred Fifty Dollars ($88.850.00) prior to perfecting any appeal in this matter, plus an additional amount of $8,800.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Eighty-Eight Thousand Eight Hundred Fifty Dollars ($88,850.00) prior to perfecting any appeal in this matter, plus an additional amount of $8,800.00 Dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-763

ERNESTINE MOOMAW, Executrix of
the Estate of F. Wayne Moomaw,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Ernestine Moomaw's compensatory damages were determined by the Jury to be One Hundred Thirty-Nine Thousand Seven Hundred Seventeen Dollars ($139,717.00). The Court does hereby further find that the Plaintiff Ernestine Moomaw had negotiated settlements in her case totalling Forty-One Thousand Four Hundred Fifty Dollars ($41,450.00) prior to said verdict. The Court does in addition find that Five Thousand Four Hundred Dollars ($5,400.00) of these negotiated settle-

ments is based upon a contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Thirty-Nine Thousand Seven Hundred Seventeen Dollars ($139,717.00) compensatory verdict shall be Thirty-Six Thousand Fifty Dollars ($36,050.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Five Thousand Three Hundred Seventeen Dollars ($5,317.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of One Hundred Three Thousand Six Hundred Sixty-Seven Dollars ($103,667.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owen-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of One Hundred Three Thousand Six Hundred Sixty-Seven Dollars ($103,667.00) prior to perfecting any appeal in this matter, plus an additional amount of $10,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of One Hundred Three Thousand Six Hundred Sixty-Seven Dollars ($103,667.00) prior to perfecting any appeal in this matter, plus an additional amount of $10,000.00 Dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-763

RAY H. WILSON, *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby find that the compensatory damages awarded to the plaintiff of Twenty-Five Thousand Dollars ($25,000.00) have been fully satisfied as a result of pre-trial settlements.

The Court does hereby HOLD and ORDER that the Defendant Owens-Illinois, Inc. shall pay no monies to the plaintiff as compensatory damages. However, pursuant to the jury's verdict in the above-styled action, the Defendant Owens-Illinois, Inc. is ordered to pay the plaintiff the sum of Five Thousand Dollars ($5,000.00) as punitive and exemplary damages. Such punitive and ex-

emplary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Five Thousand Dollars ($5,000.00) prior to perfecting any appeal in this matter, plus an additional amount of $500.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestosis and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-764

THOMAS N. CONLEY, *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby find that the compensatory damages awarded to the plaintiff of Twenty Thousand Dollars ($20,000.00) have been fully satisfied as a result of pre-trial settlements.

The Court does hereby HOLD and ORDER that the Defendant Owens-Illinois, Inc. shall pay no monies to the plaintiff as compensatory damages. However, pursuant to the jury's verdict in the above-styled action, the Defendant Owens-Illinois, Inc. is ordered to pay the plaintiff the sum of Five Thousand Dollars ($5,000.00) as puni-

tive and exemplary damages. Such punitive and exemplary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Five Thousand Dollars ($5,000.00) prior to perfecting any appeal in this matter, plus an additional amount of $500.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestosis and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-765

CARL ROTHERMUND and MAURINE ROTHERMUND, his wife,
Plaintiffs,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Carl Rothermund's compensatory damages were determined by the Jury to be One Hundred Twenty-One Thousand Dollars ($121,000.00). The Court does hereby further find that the Plaintiff Carl Rothermund had negotiated settlements in his case totalling Sixty-Eight Thousand Fifty Dollars ($68,050.00) prior to said verdict. The Court does in addition find that Five Thousand Four Hundred Dollars ($5,400.00) of these negotiated settlements is based upon a contingent and deferred payment and should therefore not be set off from

the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Twenty-One Thousand Dollars ($121,000.00) compensatory verdict shall be Sixty-Two Thousand Six Hundred Fifty Dollars ($62,650.00).

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Fifty-Eight Thousand Three Hundred Fifty Dollars ($58,350.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Fifty-Eight Thousand Three Hundred Fifty Dollars ($58,350.00) prior to perfecting any appeal in this matter, plus an additional amount of $5,800.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Fifty-Eight Thousand Three Hundred Fifty Dollars ($58,350.00) prior to perfecting any appeal in this matter, plus an additional amount of $5,800.00 Dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing lung cancer or mesothelioma, but rather were claims for asbestos pleural disease, parenchymal asbestosis, and colon cancer, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related lung malignancy, including lung cancer or mesothelioma. The Court has specifically ruled that claims for asbestos-related lung malignancies

constitute causes of actions separate from claims for asbestos pleural disease, parenchymal asbestosis, laryngeal or colon cancer and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

STATE OF WEST VIRGINIA, SS:

In the Circuit Court of Monongalia County, West Virginia, on the 15th day of May, 1991, the following order as made and entered:

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-782

MICKEY QUINCE, SR., *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby find that the compensatory damages awarded to the plaintiff of Fifteen Thousand Dollars ($15,000.00) have been fully satisfied as a result of pre-trial settlements.

The Court does hereby HOLD and ORDER that the Defendant Owens-Illinois, Inc. shall pay no monies to the plaintiff as compensatory damages. However, pursuant to the jury's verdict in the above-styled action, the De-

fendant Owens-Illinois, Inc. is ordered to pay the plaintiff the sum of Five Thousand Dollars ($5,000.00) as punitive and exemplary damages. Such punitive and exemplary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Five Thousand Dollars ($5,000.00) prior to perfecting any appeal in this matter, plus an additional amount of $500.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestos and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-800

DELIAH F. CROSS, Administratrix of the Estate of Frederick Cross,

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,

Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Deliah F. Cross' compensatory damages were determined by the Jury to be Ninety-One Thousand Nine Hundred Forty-Two Dollars ($91,942.00). The Court does hereby further find that the Plaintiff Deliah F. Cross had negotiated settlements in her case totalling Fifty-Eight Thousand Six Hundred Dollars ($58,600.00) prior to said verdict. The Court does in addition find that Six Thousand Dollars ($6,000.00) of these negotiated settlements is based upon a contingent and deferred

payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the Ninety-One Thousand Nine Hundred Forty-Two Dollars ($91,942.00) compensatory verdict shall be Fifty-Two Thousand Six Hundred Dollars ($52,600.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Five Thousand Five Hundred Forty-Two Dollars ($5,542.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Thirty-Nine Thousand Three Hundred Forty-Two Dollars ($39,342.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Thirty-Nine Thousand Three Hundred Forty-Two Dollars ($39,342.00) prior to perfecting any appeal in this matter, plus an additional amount of $4,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Thirty-Nine Thousand Three Hundred Forty-Two Dollars ($39,342.00) prior to perfecting any appeal in this matter, plus an additional amount of $4,000.00 Dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-830

LAWRENCE W. CROOK, SR. and
ELEANOR J. CROOK, his wife,
Plaintiffs,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Lawrence W. Crook's compensatory damages were determined by the Jury to be One Hundred Ninety Thousand Dollars ($190,000.00). The Court does hereby further find that the Plaintiff Lawrence W. Crook had negotiated settlements in his case totalling One Hundred Sixty-Nine Thousand Nine Hundred Twenty-Five Dollars ($169,925.00) prior to said verdict. The Court does in addition find that Twelve Thousand Dollars ($12,000.00) of these negotiated settlements is based

upon a contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Ninety Thousand Dollars ($190,000.00) compensatory verdict shall be One Hundred Fifty-Seven Thousand Nine Hundred Twenty-Five ($157,925.00).

The only defendant against whom Plaintiff was awarded a verdict was the Defendant Owens-Illinois, Inc. The Defendant Owens-Illinois is therefore ORDERED to pay unto the Plaintiff the sum of Thirty-Two Thousand Seventy-Five Dollars ($32,075.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Thirty-Two Thousand Seventy-Five Dollars ($32,075.00) prior to perfecting any appeal in this matter, plus an additional amount of $3,200.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing lung cancer or mesothelioma, but rather were claims for asbestos pleural disease, parenchymal asbestosis, and colon cancer, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related lung malignancy, including lung cancer or mesothelioma. The Court has specifically ruled that claims for asbestos-related lung malignancies constitute causes of actions separate from claims for asbestos pleural disease, parenchymal asbestosis, laryngeal or colon cancer and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-830

HELEN SMIGILL, Executrix of the Estate
of Rudy Smigill,

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Helen Smigill's compensatory damages were determined by the Jury to be One Hundred Twenty-Four Thousand Nine Hundred Four Dollars ($124,904.00). The Court does hereby further find that the Plaintiff Helen Smigill had negotiated settlements in her case totalling Seventy-Five Thousand One Hundred Fifty Dollars ($75,150.00) prior to said verdict. The Court does in addition find that Four Thousand Five Hundred Dollars ($4,500.00) of these negotiated settlements is

based upon a contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Twenty-Four Thousand Nine Hundred Four Dollars ($124,904.00) compensatory verdict shall be Seventy Thousand Six Hundred Fifty Dollars ($70,650.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Nineteen Thousand Three Hundred Four Dollars ($19,304.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only Defendant against whom Plaintiff was awarded a verdict was the Defendant Owens-Illinois, Inc. The Defendant Owens-Illinois is therefore ORDERED to pay unto the Plaintiff the sum of Fifty-Four Thousand Two Hundred Fifty-Four Dollars ($54,254.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Fifty-Four Thousand Two Hundred Fifty-Four Dollars ($54,254.00) prior to perfecting any appeal in this matter, plus an additional amount of $5,400.00 dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-831

CLARENCE DARRAH, *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Clarence Darrah's's compensatory damages were determined by the Jury to be Thirty Thousand Dollars ($30,000.00). The Court does hereby further find that the Plaintiff Clarence Darrah had negotiated settlements in his case totalling Twenty-Two Thousand Two Hundred Fifty Dollars ($22,250.00) prior to said verdict. The Court does in addition find that Two Thousand Four Hundred Dollars ($2,400.00) of these negotiated settlements is based upon a contingent and deferred payment and should therefore not be set off from the judgment at

this time. The Court does hereby HOLD and ORDER that appropriate amount of set-offs from the Thirty Thousand Dollars ($30,000.00) compensatory verdict shall be Nineteen Thousand Eight Hundred Fifty Dollars ($19,850.00).

The only defendant against whom Plaintiff was awarded a verdict was the Defendant Owens-Illinois, Inc. The Defendant Owens-Illinois, Inc. is therefore ORDERED to pay unto the Plaintiff the sum of Ten Thousand One Hundred Fifty Dollars ($10,150.00) plus interest thereon from the date of the jury verdict on March 18, 1991, until paid.

In addition to the jury's verdict in the above-styled action, the Defendant Owens-Illinois, Inc. is ordered to pay the Plaintiff the sum of Five Thousand Dollars ($5,000.00) as punitive and exemplary damages. Such punitive and exemplary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Fifteen Thousand One Hundred Fifty Dollars ($15,150.00) prior to perfecting any appeal in this matter, plus an additional amount of $1,515.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestosis and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-831

EDWARD C. EIKLEBERRY, *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby find that the compensatory damages awarded to the plaintiff of Forty Thousand Dollars ($40,000.00) have been fully satisfied as a result of pretrial settlements.

The Court does hereby HOLD and ORDER that the Defendant Owens-Illinois, Inc. shall pay no monies to the plaintiff as compensatory damages. However, pursuant to the jury's verdict in the above-styled action, the Defendant Owens-Illinois, Inc. is ordered to pay the plaintiff the sum of Five Thousand Dollars ($5,000.00) as punitive and exemplary damages. Such punitive and exem-

plary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Five Thousand Dollars ($5,000.00) prior to perfecting any appeal in this matter, plus an additional amount of $500.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestosis and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-832

MRS. JEANETTE HOPPERS, Executrix
of the Estate of Alvin Hoppers,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Jeanette Hoppers' compensatory damages were determined by the Jury to be One Hundred Fifteen Thousand Dollars ($115,000.00). The Court does hereby further find that the Plaintiff Jeanette Hoppers had negotiated settlements in her case totalling Seventy-Two Thousand Six Hundred Dollars ($72,600.00) prior to said verdict. The Court does in addition find that Nine Thousand Dollars ($9,000.00) of these negotiated settlements is based upon a contingent and deferred payment and

should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Fifteen Thousand Dollars ($115,000.00) compensatory verdict shall be Sixty-Three Thousand Six Hundred Dollars ($63,600.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Nineteen Thousand Dollars ($19,000.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendant against whom Plaintiff was awarded a verdict was the Defendant Owens-Illinois, Inc. The Defendant Owens-Illinois is therefore ORDERED to pay unto the Plaintiff the sum of Fifty-One Thousand Four Hundred Dollars ($51,400.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Fifty-One Thousand Four Hundred Dollars ($51,400.00) prior to perfecting any appeal in this matter, plus an additional amount of $5,000.00 dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-832

IVAN L. LEWIS, *et al.*,

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,

Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 15th day of May, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 18th day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby find that the compensatory damages awarded to the plaintiff of Fifteen Thousand Dollars ($15,000.00) have been fully satisfied as a result of pretrial settlements.

The Court does hereby HOLD and ORDER that the Defendant Owens-Illinois, Inc. shall pay no monies to the plaintiff as compensatory damages. However, pursuant to the jury's verdict in the above-styled action, the Defendant Owens-Illinois, Inc. is ordered to pay the plaintiff the sum of Five Thousand Dollars ($5,000.00) as

punitive and exemplary damages. Such punitive and exemplary damage awards shall in addition thereto include interest as of the date of the jury verdict at the legal rate of interest until such time as said judgments are paid.

Owens-Illinois, Inc. is hereby ORDERED to forthwith obtain a bond in the sum of Five Thousand Dollars ($5,000.00) prior to perfecting any appeal in this matter, plus an additional amount of $500.00 dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing cancer, but rather were claims for asbestos pleural disease and parenchymal asbestosis, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related malignancy. The Court has specifically ruled that claims for asbestos-related malignancies constitute separate causes of actions from claims for asbestos pleural disease and parenchymal asbestosis and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 15th day of May, 1991.

/s/ Robert B. Stone
JUDGE STONE

SUBMITTED BY:

SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 86-C-833

LINCOLN BOLYARD and
JACKLYN BOLYARD, his wife, *et al.*,
Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC., *et al.*,
Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments nothwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgements notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Lincoln Bolyard's compensatory damages were determined by the Jury to be One Hundred Thousand Dollars ($100,000.00). The Court does hereby further find that the Plaintiff Lincoln Bolyard had negotiated settlements in his case totalling Eighty-Five Thousand Three Hundred Dollars ($85,300.00) prior to said verdict. The Court does in addition find that Five Thousand Seven Hundred Dollars ($5,700.00) of these negotiated settlements is based upon a contingent and deferred payment and should therefore not be set off from

the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Thousand Dollars ($100,000.00) compensatory verdict shall be Seventy-Nine Thousand Six Hundred Dollars ($79,600.00).

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Twenty Thousand Four Hundred Dollars ($20,400.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Twenty Thousand Four Hundred Dollars ($20,400.00) prior to perfecting any appeal in this matter, plus an additional amount of $2,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Twenty Thousand Four Hundred Dollars ($20,400.00) prior to perfecting any appeal in this matter, plus an additional amount of $2,000.00 Dollars.

This Court previously having ruled that the cases listed herein did not involve claims for risk of subsequently developing lung cancer or mesothelioma, but rather were claims for asbestos pleural disease, parenchymal asbestosis, and colon cancer, including fear of cancer, it is Ordered that the jury verdict and subsequent entry of judgment pursuant to said verdict does not extinguish any rights should the plaintiff subsequently develop an asbestos-related lung malignancy, including lung cancer or mesthelioma. The Court has specifically ruled that claims for asbestos-related lung malignancies constitute causes of actions separate from claims for

asbestos pleural disease, parenchymal asbestosis, laryngeal or colon cancer and fear of cancer.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 87-C-11

LUCILLE SIMMONS, Executrix of the Estate
of Robert Simmons,

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, *et al.*,

Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Lucille Simmons' compensatory damages were determined by the Jury to be One Hundred Eighty-One Thousand One Hundred Forty-Six Dollars ($181,146.00). The Court does hereby further find that the Plaintiff Lucille Simmon had negotiated settlements in her case totalling Forty-Four Thousand One Hundred Fifty Dollars ($44,150.00) prior to said verdict. The Court does in addition find that Ten Thousand Five Hundred Dollars ($10,500.00) of these negotiated settlements

is based upon a contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the One Hundred Eighty-One Thousand One Hundred Forty-Six Dollars ($181,146.00) compensatory verdict shall be Thirty-Three Thousand Six Hundred Fifty Dollars ($33,650.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Eight Thousand Three Hundred Forty-Six Dollars ($8,346.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of One Hundred Forty-Seven Thousand Four Hundred Ninety-Six Dollars ($147,496.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of One Hundred Forty-Seven Thousand Four Hundred Ninety-Six Dollars ($147,496.00) prior to perfecting any appeal in this matter, plus an additional amount of $14,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of One Hundred Forty-Seven Thousand Four Hundred Ninety-Six Dollars ($147,496.00) prior to perfecting any appeal in this matter, plus an additional amount of $14,000.00 Dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100

IN THE CIRCUIT COURT
OF MONONGALIA COUNTY, WEST VIRGINIA

Civil Action No.: 88-C-146

JEANETTE D. ROGERS, Executrix of the Estate of Earl Horne,

Plaintiff,

v.

ANCHOR PACKING COMPANY, *et al.*,

Defendants.

JUDGMENT ORDER

BE IT REMEMBERED that on the 25th day of April, 1991, came the parties, by counsel, and did argue their motions for judgments notwithstanding the verdicts and for new trial based upon the verdicts entered against them by a petit jury of this Court on the 22nd day of March, 1991.

The Court having maturely considered the same, does hereby HOLD and ORDER that all motions for judgments notwithstanding the verdict and for new trials are hereby denied.

The Court does hereby further HOLD and ORDER that Plaintiff Jeanette D. Rogers' compensatory damages were determined by the Jury to be Ninety-Four Thousand Nine Hundred Dollars ($94,900.00). The Court does hereby further find that the Plaintiff Jeanette D. Rogers had negotiated settlements in her case totalling Thirty-Five Thousand Two Hundred Twenty-Five Dollars ($35,225.00) prior to said verdict. The Court does in addition find that Three Thousand Nine Hundred Dollars ($3,900.00) of these negotiated settlements is based

upon a contingent and deferred payment and should therefore not be set off from the judgment at this time. The Court does hereby HOLD and ORDER that the appropriate amount of set-offs from the Ninety-Four Thousand Nine Hundred Dollars ($94,900.00) compensatory verdict shall be Thirty-One Thousand Three Hundred Twenty-Five Dollars ($31,325.00).

In addition to the above stated damages, the Court hereby finds the Plaintiff was awarded the sum of Eighteen Thousand One Hundred Dollars ($18,100.00) for funeral, hospital and medical expenses and it is ORDERED Plaintiff receive pre-judgment interest at the legal rate on said amount from the date the damages were incurred until paid.

The only defendants against whom Plaintiff was awarded a verdict both jointly and severally was the Defendants Owens-Illinois, Inc. and Keene Corporation. The Defendants Owens-Illinois, and Keene Corporation is therefore ORDERED to pay unto the Plaintiff both jointly and severally the sum of Sixty-Three Thousand Five Hundred Seventy-Five Dollars ($63,575.00) plus interest thereon from the date of the jury verdict on March 22, 1991, until paid.

Owens-Illinois, Inc., is hereby ORDERED to forthwith obtain a bond in the sum of Sixty-Three Thousand Five Hundred Seventy-Five Dollars ($63,575.00) prior to perfecting any appeal in this matter, plus an additional amount of $6,000.00 dollars.

Keene Corporation is hereby ORDERED to forthwith obtain a bond in the sum of Sixty-Three Thousand Five Hundred Seventy-Five Thousand [sic] Dollars ($63,575.00) prior to perfecting any appeal in this matter, plus an additional amount of $6,000.00 Dollars.

Costs are taxed against non-prevailing Defendants.

The Defendants object and except to all adverse rulings of the Court.

ENTERED under my hand this 25th day of April, 1991.

/s/ Larry V. Starcher
JUDGE STARCHER

SUBMITTED BY:

/s/ Scott S. Segal
SCOTT S. SEGAL
HOSTLER AND SEGAL
810 Kanawha Boulevard, East
Charleston, WV 25301
(304) 344-9100